



AGENDA:
ITEM:

Memorandum

TO: SUNSHINE REFORM TASK FORCE
SUBCOMMITTEE ON PUBLIC
RECORDS

FROM: LEE PRICE, MMC
CITY CLERK

**SUBJECT: ESTABLISHING FEES FOR
COMPILING DATA OR CREATING
A RECORD IN RESPONSE TO A
REQUEST FOR PUBLIC RECORDS**

DATE: January 10, 2007

In September of 2007, the Subcommittee discussed copy fees for public records. During that discussion, I volunteered to do some survey work to find out what other cities charge for conducting research and/or compiling data to create a record that responds to a request for a public record when such a record does not exist. The following information was obtained as part of my survey:

Cities rely on the Public Records Act provision (Government Code §6253.9(b)), which provides that the requester shall bear the cost of constructing a record or conducting computer programming if the request would require data compilation, extraction, or programming to produce the record. *Generally speaking, that is the hourly wage of the employee tasked with the work.* (A copy of the statute is attached for your reference).

Excerpt from the California Government Code - Public Records Act:

6253.9. (a) Unless otherwise prohibited by law, any agency that has Information that constitutes an identifiable public record not exempt from disclosure pursuant to this chapter that is in an electronic format shall make that information available in an electronic format when requested by any person and, when applicable, shall comply with the following:

(1) The agency shall make the information available in any electronic format in which it holds the information.

(2) Each agency shall provide a copy of an electronic record in the format requested if the requested format is one that has been used by the agency to create copies for its own use or for provision to other agencies. The cost of duplication shall be limited to the direct cost of producing a copy of a record in an electronic format.

(b) Notwithstanding paragraph (2) of subdivision (a), the requester shall bear the cost of producing a copy of the record, including the cost to construct a record, and the cost of programming and computer services necessary to produce a copy of the record when either of the following applies:

(1) In order to comply with the provisions of subdivision (a), the public agency would be required to produce a copy of an electronic record and the record is one that is produced only at otherwise regularly scheduled intervals.

(2) The request would require data compilation, extraction, or programming to produce the record.

(c) Nothing in this section shall be construed to require the public agency to reconstruct a record in an electronic format if the agency no longer has the record available in an electronic format.

(d) If the request is for information in other than electronic format, and the information also is in electronic format, the agency may inform the requester that the information is available in electronic format.

(e) Nothing in this section shall be construed to permit an agency to make information available only in an electronic format.

(f) Nothing in this section shall be construed to require the public agency to release an electronic record in the electronic form in which it is held by the agency if its release would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained.

(g) Nothing in this section shall be construed to permit public access to records held by any agency to which access is otherwise restricted by statute.